

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

CAREY MAE JONES, )  
                          )  
Plaintiff,            )  
                          )  
v.                     )                           No. 3:06-CV-00490  
                          )                           (PHILLIPS/SHIRLEY)  
DIAMOND TRIUMPH AUTO GLASS, )  
                          )  
Defendant.            )

**MEMORANDUM AND ORDER**

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court and by Order [Doc. 14] of the Honorable Thomas W. Phillips, United States District Judge, for disposition of the plaintiff's Motion to Amend Complaint and Motion to File a Restated and Amended Complaint. [Doc. 12].

The plaintiff has now received the Notice of Right to Sue [Doc. 12, Exhibit A] and now moves to amend its Complaint to include a Title VII Claim. Defendant will not be prejudiced by allowing this amendment because it has been on notice since the Complaint was served that plaintiff intended to file a motion for leave to amend the Complaint once the Notice of Right to Sue was received. [Doc. 1]. Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend pleadings "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). "In the absence of any apparent or declared reason - such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue

prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.- the leave sought should, as the rules require, be ‘freely given.’” Foman v. Davis, 371 U.S. 178, 182 (1962).

The defendant failed to file a response to the plaintiff’s motion within the time period required by E.D.TN. LR 7.1(a). “Failure to respond to a motion may be deemed a waiver of any opposition to the relief sought.” E.D.TN. LR 7.2.

For good cause shown, the plaintiff’s Motion to Amend Complaint and Motion to File a Restated and Amended Complaint [Doc. 12] is **GRANTED**. The plaintiff is **DIRECTED** to file her Amended Complaint within ten (10) days of the entry of this Order.

**IT IS SO ORDERED**

**ENTER:**

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge